

APPEAL NO. 022133  
FILED OCTOBER 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 25, 2002. With respect to the issue before her in Docket No. 1, the hearing officer determined that the respondent's (claimant) compensable injury of (date of first injury), extends to and includes the right shoulder. In Docket No. 2, the hearing officer determined that the claimant did not sustain a compensable injury on (date of subsequent injury). In its appeal, the appellant, Travelers Indemnity Company of Connecticut (carrier 1), which provided workers' compensation insurance for the claimant's employer on (date of first injury), argues that the hearing officer erred in determining that the compensable injury of (date of first injury), extends to and includes the right shoulder. In her response to carrier 1's appeal, the claimant urges affirmance. The claimant did not appeal the determination that she did not sustain a compensable injury on (date of subsequent injury), and that determination has, therefore, become final pursuant to Section 410.169. In its purported response, the respondent, State Farm Fire and Casualty Company (carrier 2), which provided workers' compensation insurance for the claimant's employer on (date of subsequent injury), urges affirmance of the unappealed determination that the claimant did not sustain a compensable injury on (date of subsequent injury).

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury included the right shoulder. That issue presented a question of fact for the hearing officer. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Two of the claimant's treating doctors opined that the shoulder injury was caused by the claimant's use of the podium provided by carrier 1's ergonomic specialist for her carpal tunnel syndrome, the injury accepted as the compensable injury of (date of first injury), and the claimant testified that the pain in her right shoulder began after she started using the podium. The hearing officer was acting within her province as the fact finder in crediting the evidence from the claimant's treating doctors and in determining that the right shoulder injury was part of the compensable injury. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Carrier 1 makes much of the fact that in determining that the compensable injury includes the right shoulder, the hearing officer compared the injury resulting from the use of the podium to an injury that resulted from medical treatment. While we do not disagree that a podium provided by carrier 1's ergonomic specialist is not "medical treatment", we cannot agree that our acceptance of that proposition necessitates reversal in this instance. Rather,

we believe that the hearing officer was recognizing the similarity between an injury that resulted from an ergonomic modification of the claimant's workstation and an injury precipitated by bed rest, as occurred in Texas Workers' Compensation Commission Appeal No. 971139, decided July 24, 1997 (Unpublished). We find no merit in the assertion that the hearing officer erred in making that comparison and in determining that Appeal No. 971139 could be used a persuasive authority for determining that the claimant's right shoulder injury was compensable. In essence, the hearing officer determined that the claimant's right shoulder injury naturally flowed from the (date of first injury), compensable injury and her determination, in that regard, is not so against the great weight of the evidence as to compel its reversal on appeal. See Texas Workers' Compensation Commission Appeal No. 94844, decided August 15, 1994.

The hearing officer's decision and order are affirmed.

The true corporate name of insurance carrier 1 is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

The true corporate name of insurance carrier 2 is **STATE FARM FIRE AND CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**RON DODD  
8900 AMBERGLEN BOULEVARD  
AUSTIN, TEXAS 78729-1110.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge